

BOARD OF EQUALIZATION RULES FOR TAX APPEALS

California Code of Regulations
Title 18. Public Revenues
Division 2.1. State Board of Equalization – Rules for Tax Appeals

Chapter 5: General Board Hearing Procedures¹

Article 1: Application of Chapter and Definitions

5511. DEFINITIONS.

The following definitions apply to this chapter, and also apply to chapters 2, 3, and 4 of this division as provided therein:

(a) "Appeals Division" means the Appeals Division of the Board of Equalization's Legal Department. "Appeals Staff" means an employee or employees of the State Board of Equalization assigned to the Appeals Division of the Legal Department.

(b) "Board" means the Board Members of the State Board of Equalization meeting or acting as a body, or the agency created by article XIII, section 9, of the California Constitution, as the context indicates.

(c) "Board Chair" or "Chair" means the Chairperson of the State Board of Equalization, whom the Board may choose from time to time.

(d) "Board Member" means an individual Member of the State Board of Equalization. "Board Member" includes a deputy appointed by the Controller pursuant to Government Code section 7.6 or 7.9 (as interpreted by the Attorney General), when the deputy is performing the Controller's statutory duties on the Board.

(e) "Board Proceedings Division" means the Board Proceedings Division of the State Board of Equalization. "Board Proceedings Staff" means an employee or employees of the Board Proceedings Division.

(f) "Board Staff" means an employee or employees of the State Board of Equalization. "Board Member's Staff" refers to Board Staff assigned to the office of a Board Member.

(g) "Brief" means a written document that contains an argument supporting a party's position, including arguments on how laws or regulations apply to the facts presented in a party's matter. Notwithstanding this definition, affidavits and declarations submitted by parties, and documents produced by the Appeals Division, including, but not limited to, hearing summaries and final action recommendations, are not briefs.

(h) "Chief Counsel" means the Chief Counsel of the State Board of Equalization and any person to whom the Chief Counsel may delegate his or her official duties from time to time.

(i) "Claimant" means a taxpayer whose matter involves the denial of a claim under any of the laws listed in section 5510. The term "claimant" includes a taxpayer's authorized representative, where appropriate.

(j) "Chief of Board Proceedings" means the Chief of the Board Proceedings Division and any person to whom the Chief of Board Proceedings may delegate his or her official duties from time to time. The Chief of Board Proceedings acts as the Clerk of the Board and establishes policy for the management of the matters to be heard by the Board, including but not limited to scheduling, issuance of notices, preparation of minutes, and the review and monitoring of documents.

(k) "Delivery Service" means a trade or business, if such trade or business delivers documents in the ordinary course of its business, makes its delivery services available to the general public, and records electronically to its data base, kept in the regular course of its business, or marks on the cover in which any item is delivered, the date on which such item was received by the trade or business for delivery.

(l) "Department" means the Property and Special Taxes Department of the Board of Equalization, Sales and Use Tax Department of the Board of Equalization, Energy Commission, Department of Fish and Game, Franchise Tax Board, Department of Health Services, Department of Insurance, Integrated Waste Management Board, Public Utilities Commission, Department of Toxic Substances Control and Water Resources Control Board, where appropriate.

¹ Editorial change renaming subchapters to subarticles (Register 2008, No. 13.).

(m) "Deputy Director" means the Deputy Director of the State Board of Equalization's Sales and Use Tax Department or Property and Special Taxes Department and any person to whom the Deputy Director delegates his or her official duties from time to time.

(n) "Executive Director" means the Executive Director of the State Board of Equalization and any person to whom the Executive Director may delegate his or her official duties from time to time.

(o) "Extreme hardship" means that a person exercising ordinary care is unable to or restricted from complying with a provision of this division due to extraordinary circumstances beyond the person's control.

(p) "Hearing" means a taxpayer's opportunity to appear before the Board during a Board meeting and present oral arguments regarding issues of fact and law relevant to the taxpayer's matter.

(q) "Hearing Summary" is an objective, written document intended to assist the Board in its consideration of and decision on a matter for which an oral hearing has been requested.

(r) "Matter" means:

(1) Any petition, including, but not limited to, a petition for redetermination, petition for reassessment, petition for reconsideration of successor liability, petition for review of local tax reallocation inquiries, or petition for review of district tax redistribution inquiries;

(2) Claim, including a claim for refund;

(3) Appeal from an action of the Franchise Tax Board and related proceedings provided under chapter 4;

(4) Application for administrative hearing;

(5) Petition for rehearing; and

(6) Any other item scheduled for a Board hearing in any program listed in section 5510, including, but not limited to, requests for relief of taxes, interest, or penalties.

(s) "Party" means the taxpayer and the Department as defined in this section.

(1) In any matter where an agency has requested an oral hearing in accordance with chapter 2 and the taxpayer has not requested an oral hearing, the agency requesting the oral hearing shall be the Department for purposes of this chapter, and neither the Property and Special Taxes Department nor the Appeals Division shall be the Department.

(2) For purposes of claims or inquiries regarding the incorrect or non-distribution of local or district taxes, the term "party" means those persons defined as parties in California Code of Regulations, title 18, section 1807 or 1828.

(t) "Person" shall have the same definition as that used in Revenue and Taxation Code section 19.

(u) "Reasonable cause" means such circumstances as would prevent an ordinarily prudent and competent person exercising ordinary care and diligence from complying with a provision of this division.

(v) "Tax" means any tax, fee, surcharge, assessment, appraisal review, or exemption program administered by the Board or another agency and which is the subject of a matter before the Board.

(w) "Taxpayer" means an individual or business entity that is a taxpayer, feepayer, surcharge payer, appellant, petitioner, claimant, or any other person who has a liability, assessment, or other matter for Board hearing such as an appeal from the actions of the Franchise Tax Board, or who is a person directly interested in any matter before the Board under any of the programs listed in section 5510. A taxpayer is not a party to a claim or inquiry regarding the incorrect or non-distribution of local or district taxes except as provided in California Code of Regulations, title 18, section 1807 or 1828. The term "taxpayer" also includes, where appropriate, the taxpayer's authorized representative.

(x) "Section" means a section of title 18 of the California Code of Regulations, unless otherwise specified.

Note: Authority cited: California Constitution, article XIII, section 11; Government Code sections 15606, 15640; Revenue and Taxation Code sections 251, 1840, 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301, 60601.

References: California Constitution, article XIII, section 17; Government Code sections 15606, 15640; Revenue and Taxation Code sections 20, 254.5, 254.6, 742, 748, 1840, 5107, 5148, 6074, 6456, 6538, 6538.5, 6562, 6592, 6593, 6593.5, 6596, 6901, 6902, 6906, 6981, 7209, 7223, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8128, 8191, 8828, 8828.5, 8852, 8877, 8878,

8878.1, 8879, 9151, 9152, 9196, 12429, 12636, 12637, 12951, 12977, 12978, 12981, 18533, 19047, 19085, 19104, 19333, 19345, 20645, 30175, 30176, 30176.1, 30176.2, 30177, 30178, 30178.1, 30243, 30243.5, 30262, 30282, 30283, 30283.5, 30284, 30361, 30362, 30365, 30421, 32255, 32256, 32256.5, 32257, 32302, 32312, 32313, 32401, 32402, 32402.1, 32404, 32407, 32440, 38433, 38435, 38443, 38452, 38453, 38454, 38455, 38601, 38602, 38605, 38631, 40093, 40102, 40103, 40103.5, 40104, 40111, 40112, 40115, 40121, 41087, 41096, 41097, 41097.5, 41098, 41100, 41101, 41104, 41107, 43157, 43158, 43158.5, 43159, 43303, 43351, 43352, 43451, 43452, 43454, 43491, 45155, 45156, 45156.5, 45157, 45303, 45352, 45353, 45651, 45652, 45654, 45801, 46156, 46157, 46157.5, 46158, 46302, 46303, 46353, 46501, 46502, 46505, 46551, 50112.2, 50112.3, 50112.4, 50112.5, 50116, 50120.2, 50120.3, 50139, 50140, 50142, 50151, 55044, 55045, 55046, 55046.5, 55083, 55102, 55103, 55221, 55222, 55224, 55281, 60209, 60210, 60211, 60212, 60332, 60333, 60352, 60501, 60502, 60506, 60507, 60521, 60522, 60581.

History: 1. New section adopted 9-12-2007; effective 2-6-2008.